IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 24590 of 2007(B)

(AGAINST ORDER DATED 24/07/07 IN Ias 1355/07, 1385/07 IN OS.374/2003 of MUNSIFF COURT, CHANGANACHERRY)

.....

PETITIONER:

AMMINI, W/O. RADHAKRISHNANACHARY,
VAIKATHUSSERIL HOUSE, THRICKODITHANAM KARA,
-DO- VILLAGE, CHANGANACHERRY.

BY ADV. SRI.RAJEEV V.KURUP

RESPONDENT:

KUTTAPPAN, S/O. KUNJORAN,
CHENNIKARA THAZHE ROAD PURAMPOKIL,
FATHIMAPURAM BHAGOM, PERUNN EAST MURI FROM
KALLOOPARAMBIL, PERUNNA EAST KARA, CHANGANACHERRY.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.24590/2007 B

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE SCHEDULE OF PROPERTY IN O.S.374/03 OF THE MUNSIFF COURT, CHANGANACHERRY.**

EXT.P2: **COPY OF THE IMPLEADING PETITION DTD. 18/07/07.**

EXT.P3: **COPY OF THE AMENDMENT PETITION DTD. 16/07/07.**

EXT.P4: **COPY OF THE COMMON ORDER DTD. 24/07/07 IN I.A.1355/07 AND 1385/07 IN O.S.374/03 OF THE MUNSIFF COURT, CHANGANACHERRY.**

/TRUE COPY/

P.A.TO JUDGE

KSS

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = = =

W.P.C. NO. 24590 OF 2007

= = = = = = = = = = = = = = = =

Dated this the 10th day of October, 2007.

J U D G M E N T

This writ petition is preferred against the order in I.A.Nos.1355/07 and 1385/07. I.A.1385/07 is filed for impleading one Ambika as a party to the proceedings and the other application is one for amending the plaint. The Court below heard both applications and dismissed the same.

2. The suit is one for declaration of title, fixation of boundary and for a permanent injunction. The defendant after entering appearance at the stage of evidence had tendered that a portion of two cents had been assigned in favour of one Smt.Ambika and she is in possession of the property. The plaintiff contends that she is also attempting to interfere with the property of the plaintiff and as there is a prayer for fixation of boundary, she is necessarily to be a party in the suit concerned. I feel, in the peculiar facts and circumstances of the case, it may not be correct to

adjudicate the matter without hearing the persons who will be affected by the order of the Court in one way or the other. Therefore, I direct the writ petitioner herein to implead Smt. Ambika as a proposed party in the interim application for impleadment and amendment and the Court after issuing notice and hearing her dispose of the matter taking into consideration the facts whether her junction is really necessary for a proper determination of the suit explaining especially in the back drop of the case that there is a prayer for fixation of boundary of the property and that Smt.Ambika is given possession of two cents of land adjacent to the property of the plaintiff. Those things may be considered and therefore the orders under challenge are set aside and the matter is remitted back to the Court below with a direction to the writ petitioner to implead the proposed party as a party to the proceedings and dispose of the matter after hearing all concerned. When it is so, the Court necessarily have to consider the amendment application also afresh after applying its mind into the facts that are involved in that

applications. Both the parties are directed to appear before the Court below on 14/11/07.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-